

ENROLLED SENATE  
BILL NO. 632

By: Smith of the Senate

and

Hastings, Adkins, Balkman,  
Cargill, Friskup, O'Neal,  
Peters and Tibbs of the  
House

An Act relating to courts; establishing certain administrative fees for municipal courts; amending 19 O.S. 1991, Section 220, as amended by Section 3, Chapter 310, O.S.L. 1998 (19 O.S. Supp. 2000, Section 220), which relates to the Court Clerk's Revolving Fund; providing for administrative fee on certain fees collected by court clerk; amending 20 O.S. 1991, Sections 1313.2, as last amended by Section 1 of Enrolled Senate Bill No. 541 of the 1st Session of the 48th Legislature and 1313.3, as last amended by Section 2, Chapter 386, O.S.L. 1999 (20 O.S. Supp. 2000, Sections 1313.2 and 1313.3), which relate to penalties, fees and fines; deleting language authorizing court clerk to retain certain monies; clarifying language; amending 21 O.S. 1991, Section 1761.1, as last amended by Section 1, Chapter 176, O.S.L. 2000 (21 O.S. Supp. 2000, Section 1761.1), which relates to certain fines; deleting language authorizing court clerk retain certain monies; amending Section 7, Chapter 359, O.S.L. 1997, as amended by Section 1, Chapter 53, O.S.L. 1998, 22 O.S. 1991, Sections 979a, as last amended by Section 1, Chapter 205, O.S.L. 1999 and 1355.14, as last amended by Section 2, Chapter 197, O.S.L. 1999 (22 O.S. Supp. 2000, Sections 471.6, 979a and 1355.14), which relate to costs and fees; deleting language authorizing court clerk to retain certain fees and administrative costs; amending 52 O.S. 1991, Section 318.5, which relates to surface damages; requiring certain information and material to be provided to court clerk; amending 63 O.S. 1991, Section 2-503.2, as last amended by Section 2, Chapter 53, O.S.L. 1998 (63 O.S. Supp. 2000, Section 2-503.2), which relates to assessments; deleting language authorizing court clerk to retain certain fees; amending 69 O.S. 1991, Section 1203, which relates to acquisition of lands; requiring certain information and material to be provided to court clerk; making language gender neutral; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 14-111.1 of Title 11, unless there is created a duplication in numbering, reads as follows:

Section 14-111.1 A. A municipal court which collects a penalty assessment or other state fee from a defendant pursuant to state law may retain eight cents (\$0.08) of such monies and may also retain all interest accrued thereon prior to the due date for deposits as provided in state law. The fee shall be deposited as determined by the municipal governing body.

B. A municipal court in a municipality having a basic law enforcement academy approved by the Council on Law Enforcement Education and Training pursuant to the criteria developed by the Council for training law enforcement officers may retain as an administrative fee two percent (2%) of any penalty assessment or other state fee imposed by state statute. The two percent (2%) administrative fee shall be deducted from the portion of the penalty assessment or other state fee retained by such municipality.

SECTION 2. AMENDATORY 19 O.S. 1991, Section 220, as amended by Section 3, Chapter 310, O.S.L. 1998 (19 O.S. Supp. 2000, Section 220), is amended to read as follows:

Section 220. A. Beginning July 1, 1991, there is hereby created with the county treasurer of each county within this state a revolving fund to be designated the "Court Clerk's Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received as grants from the federal government and any other monies designated by law for deposit into the fund. All monies accruing to the credit of the fund are hereby appropriated and ~~may shall be budgeted and~~ expended by the court clerk ~~in the manner and for the purposes set forth for the court fund as specified in Title 20 of the Oklahoma Statutes for the lawful operation of the court clerk's office.~~ Claims against the fund shall include only expenses incurred for the operation of the court clerk's office in each county, and payment may be made after the claim is approved by the court clerk and either the district or the associate district judge of that county. The monies shall be reported quarterly to the Administrator of the Courts. The necessary forms and procedures shall be developed and implemented by the State Auditor and Inspector.

B. There shall be no monies, other than federal funds, deposited into the fund created herein, unless expressly authorized by the Legislature.

C. Notwithstanding any other provision of law, the court clerk shall assess an administrative fee of ten percent (10%) on all fees collected by the court clerk for agencies other than the court and not deposited into the court fund. The administrative fee shall not attach to the sheriff's service fees provided for in Sections 153 and 153.2 of Title 28 of the Oklahoma Statutes, monies deposited into the Law Library Fund, witness fees paid by the district attorney pursuant to the provisions of Section 82 of Title 28 of the

Oklahoma Statutes, and dispute resolution fees provided for in Section 1809 of Title 12 of the Oklahoma Statutes. The administrative fees shall be deposited in the Court Clerk's Revolving Fund.

SECTION 3. AMENDATORY 20 O.S. 1991, Section 1313.2, as last amended by Section 1 of Enrolled Senate Bill No. 541 of the 1st Session of the 48th Legislature, is amended to read as follows:

Section 1313.2 A. As used in this section:

1. "Convicted" means any final adjudication of guilt, whether pursuant to a plea of guilty or nolo contendere or otherwise, and any deferred or suspended sentence or judgment;

2. "Court" means any state or municipal court having jurisdiction to impose a criminal fine or penalty; and

3. "DNA" means Deoxyribonucleic acid.

B. Any person convicted of an offense, including traffic offenses but excluding parking and standing violations, punishable by a fine of Ten Dollars (\$10.00) or more or by incarceration or any person forfeiting bond when charged with such an offense, shall be ordered by the court to pay Seven Dollars (\$7.00) as a separate penalty assessment and One Hundred Fifty Dollars (\$150.00) as a Laboratory Analysis Fee if applicable pursuant to subsection C of this section, and One Hundred Fifty Dollars (\$150.00) as a DNA fee if applicable pursuant to subsection G of this section, which assessment and fee shall be in addition to and not in substitution for any and all fines and penalties otherwise provided for by law for such offense.

C. 1. Any person convicted of any misdemeanor or felony offense shall pay a Laboratory Analysis Fee in the amount of One Hundred Fifty Dollars (\$150.00) for each offense if forensic science or laboratory services are rendered or administered by the Oklahoma State Bureau of Investigation, by the Toxicology Laboratory of the Office of the Chief Medical Examiner or by any municipality or county in connection with the case.

2. The court clerk shall cause to be deposited the amount of One Hundred Fifty Dollars (\$150.00) as collected, for every conviction as described in this subsection. ~~The court may retain fifteen percent (15%) of such monies to cover administrative costs pursuant to this subsection.~~ The court clerk shall remit the ~~remainder~~ of the monies in the fund on a monthly basis either to:

- a. the Oklahoma State Bureau of Investigation who shall deposit the monies into the OSBI Revolving Fund provided for in Section 150.19a of Title 74 of the Oklahoma Statutes for services rendered or administered by the Oklahoma State Bureau of Investigation,
- b. the Office of the Chief Medical Examiner who shall deposit the monies into the Office of the Chief

Medical Examiner Toxicology Laboratory Revolving Fund provided for in Section 954 of Title 63 of the Oklahoma Statutes for services rendered or administered by the Toxicology Laboratory of the Office of the Chief Medical Examiner, or

- c. the appropriate municipality or county for services rendered or administered by a municipality or county.

3. The monies from the Laboratory Analysis Fee Fund deposited into the OSBI Revolving Fund shall be used for the following:

- a. providing criminalistic laboratory services,
- b. the purchase and maintenance of equipment for use by the laboratory in performing analysis,
- c. education, training, and scientific development of Oklahoma State Bureau of Investigation personnel, and
- d. the destruction of seized property and chemicals as prescribed in Sections 2-505 and 2-508 of Title 63 of the Oklahoma Statutes.

D. Upon conviction or bond forfeiture, the court shall collect the penalty assessment provided for in subsection B of this section and deposit it in an account created for that purpose. ~~As an administrative fee for handling funds collected as a penalty assessment, each court is authorized to retain eight cents (\$0.08) of such monies and may also retain all interest accrued thereon prior to the due date for deposits as provided in this subsection.~~ Except as otherwise provided in subsection E of this section, ~~the remainder of such~~ monies shall be forwarded quarterly by the court clerk to the State Treasury. Deposits shall be due July 15 for the preceding quarter ending June 30, October 15 for the preceding quarter ending September 30, January 15 for the preceding quarter ending December 31, and April 15 for the preceding quarter ending March 31. There shall be a penalty imposed for failure to make timely deposits; provided, the Council on Law Enforcement and Education Training, in its discretion, may waive all or part of the penalty. Such penalty shall be one percent (1%) of the principal amount due per day beginning from the tenth day after payment is due and accumulating until the penalty reaches one hundred percent (100%) of the principal amount due. Beginning on July 1, 1987, ninety percent (90%) of the monies received by the State Treasurer from the court clerks pursuant to this section shall be deposited in the C.L.E.E.T. Fund and ten percent (10%) shall be deposited in the General Revenue Fund. Beginning January 1, 2001, fifty-two and ninety-two one hundredths percent (52.92%) of the monies received by the State Treasurer from the court clerks pursuant to this section shall be deposited in the C.L.E.E.T. Fund, five and eighty-five one hundredths percent (5.85%) shall be deposited in the General Revenue Fund and forty-one and twenty-three one hundredths percent (41.23%) shall be deposited in the C.L.E.E.T. Training Center Revolving Fund created pursuant to ~~Section 3~~ subsection F of this ~~act~~ section. Along with the deposits required by this subsection each court shall also submit a report stating the total amount of funds collected and

the total number of penalty assessments imposed during the preceding quarter. The report may be made on computerized or manual disposition reports.

E. Any municipality or county having a basic law enforcement academy approved by the Council on Law Enforcement Education and Training pursuant to the criteria developed by the Council for training law enforcement officers shall retain from monies collected pursuant to this section, Two Dollars (\$2.00) from each penalty assessment ~~less the two percent (2%) administrative fee retained by the court.~~ These monies shall be deposited into an account for the sole use of the municipality or county in implementing its law enforcement training functions. Not more than seven percent (7%) of such monies shall be used for court and prosecution training. The court clerk of any such municipality or county shall furnish to the State Treasury the report required by subsection D of this section.

F. There is hereby created in the State Treasury a fund for the Council on Law Enforcement Education and Training to be designated the "C.L.E.E.T. Fund". The fund shall be subject to legislative appropriation and shall consist of any monies received from fees and receipts collected pursuant to the Oklahoma Open Records Act, reimbursements for parts used in the repair of weapons of law enforcement officers attending the basic academies, gifts, bequests, contributions, tuition, fees, devises, and the assessments levied pursuant to the fund pursuant to law.

G. 1. Any person convicted of violating Section 7115 of Title 10 of the Oklahoma Statutes or Section 645, 650, 650.2, 650.5, 650.6, 650.7, 650.8, 651, 652, 701.7, 701.8, 711, 832, 885, 888, 1114, subsection B of Section 1021, 1021.2, 1021.3, 1087, 1088, 1123, 1173, or 1192.1 of Title 21 of the Oklahoma Statutes shall pay a DNA fee of One Hundred Fifty Dollars (\$150.00). This fee shall not be collected if the person has a valid DNA sample in the OSBI DNA Offender Database at the time of sentencing.

2. The court clerk shall cause to be deposited the amount of One Hundred Fifty Dollars (\$150.00) as collected, for every conviction as described in this subsection. ~~The court may retain fifteen percent (15%) of such monies to cover administrative costs pursuant to this subsection.~~ The court clerk shall remit ~~the remainder of~~ the monies in said fund on a monthly basis to the Oklahoma State Bureau of Investigation who shall deposit the monies into the OSBI Revolving Fund provided for in Section 150.19a of Title 74 of the Oklahoma Statutes for services rendered or administered by the Oklahoma State Bureau of Investigation.

3. The monies from the DNA sample fee deposited into the OSBI Revolving Fund shall be used for creating, staffing, and maintaining the OSBI DNA Laboratory and OSBI DNA Offender Database.

SECTION 4. AMENDATORY 20 O.S. 1991, Section 1313.3, as last amended by Section 2, Chapter 386, O.S.L. 1999 (20 O.S. Supp. 2000, Section 1313.3), is amended to read as follows:

Section 1313.3 A. In addition to the penalty assessment imposed by Section 1313.2 of this title, any person convicted of any

offense, including traffic offenses but excluding parking and standing violations, punishable by a fine of Ten Dollars (\$10.00) or more or by incarceration or any person forfeiting bond when charged with such offense, shall be ordered by the court to pay a fingerprinting fee in the amount of Three Dollars (\$3.00) for each offense for the A.F.I.S. Fund in the State Treasury. The fee shall be in addition to and not in substitution for any and all fines and penalties otherwise provided for by law for such offense. The fee shall be collected at the same time and in the same manner as the penalty assessment provided for in Section 1313.2 of ~~Title 20 of the Oklahoma Statutes~~ this title. ~~Each court clerk shall be authorized to retain six cents (\$0.06) of each fee collected.~~ The court clerk shall deposit the fee collected pursuant to this section in the account provided for in subsection D of Section 1313.2 of this title and shall forward the amounts imposed by this section and Section 1313.2 of this title as a lump sum in one check or draft. The deposits required by this section shall be included in the total amount of money disclosed in the report required by Section 1313.2 of this title, but it shall not be required that the fee be listed as a separate item. Two Dollars and seventy cents (\$2.70) of each penalty assessment received pursuant to this section by the State Treasurer shall be deposited in the A.F.I.S. Fund and twenty-four cents (\$0.24) shall be deposited in the General Revenue Fund.

B. As used in this section:

1. "Convicted" means any final adjudication of guilt, whether pursuant to a plea of guilty or nolo contendere or otherwise, and any deferred judgment or suspended sentence; and

2. "Court" means any state or municipal court having jurisdiction to impose a criminal fine or penalty.

SECTION 5. AMENDATORY 21 O.S. 1991, Section 1761.1, as last amended by Section 1, Chapter 176, O.S.L. 2000 (21 O.S. Supp. 2000, Section 1761.1), is amended to read as follows:

Section 1761.1 A. Any person who deliberately places, throws, drops, dumps, deposits, or discards any garbage, trash, waste, rubbish, refuse, debris, or other deleterious substance on any public property or on any private property of another without consent of the property owner shall be deemed guilty of a misdemeanor.

B. Any person convicted of violating the provisions of subsection A of this section shall be punished by a fine of not less than Two Hundred Dollars (\$200.00) nor more than Five Thousand Dollars (\$5,000.00) or by imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

C. In addition to the penalty prescribed by subsection B of this section, the court shall direct the person to make restitution to the property owner affected; to remove and properly dispose of the garbage, trash, waste, rubbish, refuse, or debris from the property; to pick up, remove, and properly dispose of garbage, trash, waste, rubbish, refuse, debris, and other nonhazardous deleterious substances from public property; or perform community

service or any combination of the foregoing which the court, in its discretion, deems appropriate. The dates, times, and locations of such activities shall be scheduled by the sheriff pursuant to the order of the court in such a manner as not to interfere with the employment or family responsibilities of the person.

D. In addition to the penalty prescribed in subsection B of this section and the restitution prescribed in subsection C of this section, the court may order the defendant to pay into the reward fund as prescribed in Section 1334 of Title 22 of the Oklahoma Statutes an amount not to exceed Two Thousand Dollars (\$2,000.00).

E. The discovery of two or more items which have been dropped, dumped, deposited, discarded, placed, or thrown at one location and which bear a common address in a form which tends to identify the latest owner of the items shall create a rebuttable presumption that any competent person residing at such address committed the unlawful act. The discovery or use of such evidence shall not be sufficient to qualify for the reward provided in Section 1334 of Title 22 of the Oklahoma Statutes.

F. Any person may report a violation of this section, if committed in their presence, to an officer of the State Highway Patrol, a county sheriff or deputy, a municipal law enforcement officer or any other peace officer in this state. The peace officer shall then conduct an investigation into the allegations, if warranted. If a violation of this section has in fact been committed, and the peace officer has reasonable cause to believe a particular person or persons have committed the violation, a report shall be filed with the District Attorney for prosecution.

G. Notwithstanding the provisions of subsection F of this section, any peace officer of this state or of any political subdivision of this state may issue a state traffic citation to any person committing a violation of subsection A of this section. Such state traffic citation shall be in an amount not exceeding Two Hundred Dollars (\$200.00) and the penalties collected from the payment of such citations shall, after deduction of court costs ~~and five percent (5%) of any fines collected to be retained by the court clerk as an administrative expense,~~ be divided as follows:

1. One-half (1/2) shall be paid into the reward fund created pursuant to Section 1334 of Title 22 of the Oklahoma Statutes; and

2. One-half (1/2) shall be paid into the sheriff's service fee account for that county to be used for enforcing provisions of this section.

H. The amount of bail for littering offenses specified in Section 1753.3 of this title and for trash dumping offenses specified in this section shall be the amount of fine specified in each statute plus costs including any penalty assessment, as well as costs incurred in Section 1313.3 of Title 20 of the Oklahoma Statutes.

SECTION 6. AMENDATORY Section 7, Chapter 359, O.S.L. 1997, as amended by Section 1, Chapter 53, O.S.L. 1998 (22 O.S. Supp. 2000, Section 471.6), is amended to read as follows:

Section 471.6 A. The drug court judge shall conduct a hearing as required by subsection E of Section 471.4 of this title to determine final eligibility by considering:

1. Whether or not the offender voluntarily consents to the program requirements;

2. Whether or not to accept the offender based upon the findings and recommendations of the drug court investigation authorized by Section 471.4 of this title;

3. Whether or not there is a written plea agreement, and if so, whether the terms and conditions of the written negotiated plea between the district attorney, the defense attorney, and the offender are appropriate and consistent with the penalty provisions and conditions of other similar cases;

4. Whether or not there is an appropriate treatment program available to the offender and whether or not there is a recommended treatment plan; and

5. Any information relevant to determining eligibility; provided, however, an offender shall not be denied admittance to any drug court program based upon an inability to pay court costs or other costs or fees.

B. At the hearing to determine final eligibility for the drug court program, the judge shall not grant any admission of any offender to the program when:

1. The required treatment plan and plea agreement have not been completed;

2. The program funding or availability of treatment has been exhausted;

3. The treatment program is unwilling to accept the offender;

4. The offender was ineligible for consideration by the nature of a violent offense at the time of arrest, and the charge has been modified to meet the eligibility criteria of the program; or

5. The offender is inappropriate for admission to the program, in the discretion of the judge.

C. At the final eligibility hearing, if evidence is presented that was not discovered by the drug court investigation, the district attorney or the defense attorney may make an objection and may ask the court to withdraw the plea agreement previously negotiated. The court shall determine whether to proceed and overrule the objection, to sustain the objection and transfer the case for traditional criminal prosecution, or to require further

negotiations of the plea or punishment provisions. The decision of the judge for or against eligibility and admission shall be final.

D. When the court accepts the treatment plan with the written plea agreement, the offender, upon entering the plea as agreed by the parties, shall be ordered and escorted immediately into the program. The offender must have voluntarily signed the necessary court documents before the offender may be admitted to treatment. The court documents shall include:

1. Waiver of the offender's rights to speedy trial;
2. A written plea agreement which sets forth the offense charged, the penalty to be imposed for the offense in the event of a breach of the agreement, and the penalty to be imposed, if any, in the event of a successful completion of the treatment program; provided, however, incarceration shall be prohibited when the offender completes the treatment program;
3. A written treatment plan which is subject to modification at any time during the program; and
4. A written performance contract requiring the offender to enter the treatment program as directed by the court and participate until completion, withdrawal, or removal by the court.

E. If admission into the drug court program is denied, the criminal case shall be returned to the traditional criminal docket and shall proceed as provided for any other criminal case.

F. At the time an offender is admitted to the drug court program, any bail or undertaking on behalf of the offender shall be exonerated.

G. The period of time during which an offender may participate in the active treatment portion of the drug court program shall be not less than six (6) months nor more than twenty-four (24) months and may include a period of supervision not less than six (6) months nor more than one (1) year following the treatment portion of the program. All participating treatment providers shall be certified by the Department of Mental Health and Substance Abuse Services and shall be selected and evaluated for performance-based effectiveness annually by the Department of Mental Health and Substance Abuse Services. Treatment programs shall be designed to be completed within twelve (12) months and shall have relapse prevention and evaluation components.

H. The drug court judge shall order the offender to pay court costs, treatment costs, drug testing costs, a program user fee not to exceed Twenty Dollars (\$20.00) per month, and necessary supervision fees, unless the offender is indigent. The drug court judge shall establish a schedule for the payment of costs and fees. The cost for treatment, drug testing, and supervision shall be set by the treatment and supervision providers respectively and made part of the court's order for payment. User fees shall be set by the drug court judge within the maximum amount authorized by this subsection and payable directly to the court clerk for the benefit

and administration of the drug court program. Treatment, drug testing, and supervision costs shall be paid to the respective providers. The court clerk shall collect all other costs and fees ordered. ~~The court clerk shall be authorized to retain two percent (2%) of any user fees collected pursuant to the Oklahoma Drug Court Act and deposit such amount in the Court Clerk's Revolving Fund pursuant to the provisions of Section 220 of Title 19 of the Oklahoma Statutes.~~ The remaining user fees shall be remitted to the State Treasurer by the court clerk for deposit in the Department of Mental Health and Substance Abuse Services' Drug Abuse Education and Treatment Revolving Fund established pursuant to Section 2-503.2 of Title 63 of the Oklahoma Statutes. Court orders for costs and fees pursuant to this subsection shall not be limited for purposes of collection to the maximum term of imprisonment for which the offender could have been imprisoned for the offense, nor shall any court order for costs and fees be limited by any term of probation, parole, supervision, treatment, or extension thereof. Court orders for costs and fees shall remain an obligation of the offender with court monitoring until fully paid.

SECTION 7. AMENDATORY 22 O.S. 1991, Section 979a, as last amended by Section 1, Chapter 205, O.S.L. 1999 (22 O.S. Supp. 2000, Section 979a), is amended to read as follows:

Section 979a. A. Except as otherwise provided in this section, the municipal attorney or district attorney shall ask the court to require a person confined in a city or county jail, for any offense, to pay the jail facility the costs of incarceration, both before and after conviction, upon conviction or receiving a deferred sentence. The costs of incarceration shall be collected by the clerk of the court. Costs of incarceration shall include booking, receiving and processing out, housing, food, clothing, medical care, dental care, and psychiatric services. The costs for incarceration shall be an amount equal to the actual cost of the services and shall be determined by the chief of police for city jails, by the county sheriff for county jails or by contract amount, if applicable. The cost of incarceration shall be paid to the municipality, county or other public entity responsible for the operation of all jail facilities where the person is held before and after conviction. The costs shall not be assessed if, in the judgment of the court, such costs would impose a manifest hardship on the person, or if in the opinion of the court the property of the person is needed for the maintenance and support of immediate family. Five percent (5%) of any amount collected shall be paid to the municipal attorney's or district attorney's office, ~~five percent (5%) shall be deposited in the court clerk's revolving fund,~~ five percent (5%) shall be transmitted by the court clerk to the District Attorneys Council Revolving Fund, established by Section 215.28 of Title 19 of the Oklahoma Statutes, to be used to fund personnel to process victim compensation claims in district offices designated by the Crime Victims Compensation Board and the remaining amount shall be paid to the municipality, the sheriff's service fee account or, if the sheriff does not operate the jail facility, the remaining amount shall be deposited with the public entity responsible for the operation of the jail facility where the person is held.

B. Any offender injured during the commission of a felony or misdemeanor offense shall be required to reimburse the sheriff, municipality or other public entity responsible for the operation of the jail, the full amount paid by the sheriff, municipality or other public entity responsible for the operation of the jail for any medical care or treatment administered to such offender during any period of incarceration or preceding incarceration in that jail facility. The sheriff, municipality or other public entity responsible for the operation of the jail may deduct the costs of medical care and treatment resulting from the commission of a felony or misdemeanor offense from any money collected from such inmate's jail account as authorized by Section 531 of Title 19 of the Oklahoma Statutes. If the funds collected from the inmate's jail account are insufficient to satisfy the actual medical costs paid as a result of the commission of a felony or misdemeanor offense, the court shall order the remaining balance of the medical care and treatment to be paid.

SECTION 8. AMENDATORY 22 O.S. 1991, Section 1355.14, as last amended by Section 2, Chapter 197, O.S.L. 1999 (22 O.S. Supp. 2000, Section 1355.14), is amended to read as follows:

Section 1355.14 A. At the time of pronouncing the judgment and sentence or other final order, the court shall order any person represented by an attorney employed by the Indigent Defense System or a defense attorney who contracts or volunteers to represent indigents pursuant to the provisions of the Indigent Defense Act to pay the costs for representation in total or in installments and, in the case of installment payments, set the amount and due date of each installment. The attorney representing the indigent person shall document for the court the total costs for representation.

B. Costs assessed pursuant to this section shall be collected by the court clerk and when collected paid monthly to the Oklahoma Indigent Defense System for deposit to the Indigent Defense System Revolving Fund. ~~The court clerk may retain not more than ten percent (10%) of all such costs collected as an administrative fee, which shall be deposited in the Court Clerk's Revolving Fund.~~

C. Costs of representation shall be a debt against the person represented until paid and shall be subject to any method provided by law for the collection of debts.

D. Any order directing the defendant to pay costs of representation shall be a lien against all real and personal property of the defendant and may be filed against such property and foreclosed as provided by law for civil liens.

SECTION 9. AMENDATORY 52 O.S. 1991, Section 318.5, is amended to read as follows:

Section 318.5 A. Prior to entering the site with heavy equipment, the operator shall negotiate with the surface owner for the payment of any damages which may be caused by the drilling operation. If the parties agree, and a written contract is signed, the operator may enter the site to drill. If agreement is not reached, or if the operator is not able to contact all parties, the

operator shall petition the district court in the county in which the drilling site is located for appointment of appraisers to make recommendations to the parties and to the court concerning the amount of damages, if any. Once the operator has petitioned for appointment of appraisers, he may enter the site to drill.

B. Ten (10) days' notice of the petition to appoint appraisers shall be given to the opposite party, either by personal service or by leaving a copy thereof at his usual place of residence with some member of his family over fifteen (15) years of age, or, in the case of nonresidents, unknown heirs or other persons whose whereabouts cannot be ascertained, by publication in one issue of a newspaper qualified to publish legal notices in said county, as provided in Section 106 of Title 25 of the Oklahoma Statutes, said ten-day period to begin with the first publication.

C. The operator shall select one appraiser, the surface owner shall select one appraiser, and the two selected appraisers shall select a third appraiser for appointment by the court. Unless for good cause shown, additional time is allowed by the district court, the three (3) appraisers shall be selected within twenty (20) days of service of the notice of the petition to appoint appraisers or within twenty (20) days of the first date of publication of the notice as specified in subsection B of this section. If either of the parties fails to appoint an appraiser or if the two appraisers cannot agree on the selection of the third appraiser within the required time period, the remaining required appraisers shall be selected by the district court upon application of either party. Before entering upon their duties, such appraisers shall take and subscribe an oath, before a notary public or some other person authorized to administer oaths, that they will perform their duties faithfully and impartially to the best of their ability. They shall inspect the real property and consider the surface damages which the owner has sustained or will sustain by reason of entry upon the subject land and by reason of drilling or maintenance of oil or gas production on the subject tract of land. The appraisers shall then file a written report within thirty (30) days of the date of their appointment with the clerk of the court. The report shall set forth the quantity, boundaries and value of the property entered on or to be utilized in said oil or gas drilling, and the amount of surface damages done or to be done to the property. The appraisers shall make a valuation and determine the amount of compensation to be paid by the operator to the surface owner and the manner in which the amount shall be paid. Said appraisers shall then make a report of their proceedings to the court. The compensation of the appraisers shall be fixed and determined by the court. The operator and the surface owner shall share equally in the payment of the appraisers' fees and court costs.

D. Within ten (10) days after the report of the appraisers is filed, the clerk of the court shall forward to each attorney of record, each party, and interested party of record, a copy of the report of the appraisers and a notice stating the time limits for filing an exception or a demand for jury trial as provided for in this section. The operator shall provide the clerk of the court with the names and last-known addresses of the parties to whom the

notice and report shall be mailed, sufficient copies of the notice and report to be mailed, and pre-addressed, postage-paid envelopes.

1. This notice shall be on a form prepared by the Administrative Director of the Courts, approved by the Oklahoma Supreme Court, and supplied to all district court clerks.

2. If a party has been served by publication, the clerk shall forward a copy of the report of the appraisers and the notice of time limits for filing either an exception or a demand for jury trial to the last-known mailing address of each party, if any, and shall cause a copy of the notice of time limits to be published in one issue of a newspaper qualified to publish legal notices as provided in Section 106 of Title 25 of the Oklahoma Statutes.

3. After issuing the notice provided herein, the clerk shall endorse on the notice form filed in the case the date that a copy of the report and the notice form was forwarded to each attorney of record, each party, and each interested party of record, or the date the notice was published.

E. The time for filing an exception to the report or a demand for jury trial shall be calculated as commencing from the date the report of the appraisers is filed with the court. Upon failure of the clerk to give notice within the time prescribed, the court, upon application by any interested party, may extend the time for filing an exception to the report or filing a demand for trial by jury for a reasonable period of time not less than twenty (20) days from the date the application is heard by the court. Appraisers' fees and court costs may be the subject of an exception, may be included in an action by the petitioner, and may be set and allowed by the court.

F. The report of the appraisers may be reviewed by the court, upon written exceptions filed with the court by either party within thirty (30) days after the filing of the report. After the hearing the court shall enter the appropriate order either by confirmation, rejection, modification, or order of a new appraisal for good cause shown. Provided, that in the event a new appraisal is ordered, the operator shall have continuing right of entry subject to the continuance of the bond required herein. Either party may, within sixty (60) days after the filing of such report, file with the clerk a written demand for a trial by jury, in which case the amount of damages shall be assessed by a jury. The trial shall be conducted and judgment entered in the same manner as railroad condemnation actions tried in the court. If the party demanding the jury trial does not recover a verdict more favorable to him than the assessment award of the appraisers, all court costs including reasonable attorney fees shall be assessed against him.

SECTION 10. AMENDATORY 63 O.S. 1991, Section 2-503.2, as last amended by Section 2, Chapter 53, O.S.L. 1998 (63 O.S. Supp. 2000, Section 2-503.2), is amended to read as follows:

Section 2-503.2 A. Every person convicted of a violation of the Uniform Controlled Dangerous Substances Act, Section 2-101 et seq. of this title, or the Trafficking In Illegal Drugs Act, Section

2-414 et seq. of this title, shall be assessed for each offense a sum of not less than One Hundred Dollars (\$100.00) nor more than Three Thousand Dollars (\$3,000.00). The assessment shall be mandatory and in addition to and not in lieu of any fines, restitution costs, other assessments, or forfeitures authorized or required by law for the offense. The assessment required by this section shall not be subject to any order of suspension. The court shall order either a lump sum payment or establish a payment schedule. Failure of the offender to comply with the payment schedule shall be considered contempt of court. For purposes of collection, the assessment order shall not expire until paid in full, nor shall the assessment order be limited by the term of imprisonment prescribed by law for the offense, nor by any term of imprisonment imposed against the offender, whether suspended or actually served.

B. The assessment provided for in subsection A of this section shall be collected by the court clerk as provided for collection of fines and costs. When assessment payments are collected by the court clerk pursuant to court order, the funds shall be forwarded to the State Treasurer for deposit to the Department of Mental Health and Substance Abuse Services' Drug Abuse Education and Treatment Revolving Fund. ~~The court clerk shall be authorized to retain two percent (2%) of any user fees collected pursuant to the Oklahoma Drug Court Act and deposit such amount in the Court Clerk's Revolving Fund pursuant to the provisions of Section 220 of Title 19 of the Oklahoma Statutes.~~

C. There is hereby created in the State Treasury a revolving fund for the Department of Mental Health and Substance Abuse Services to be designated the "Drug Abuse Education and Treatment Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of assessments collected pursuant to this section, grants, gifts and other money accruing to the benefit of said fund and the Oklahoma Drug Court Act. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Department of Mental Health and Substance Abuse Services for treatment and drug testing of indigent substance abusing offenders pursuant to the Oklahoma Drug Court Act and for substance abuse prevention and education. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment. Monies expended from this fund shall not supplant other local, state, or federal funds.

SECTION 11. AMENDATORY 69 O.S. 1991, Section 1203, is amended to read as follows:

Section 1203. (a) The Department shall have authority to acquire in fee simple in the name of the State of Oklahoma, by purchase, donation or condemnation, lands or such interests therein as in its discretion may be necessary for the purpose of establishing, constructing and maintaining state highways or relocations thereof, and facilities necessary or incident thereto, including borrow areas, channel changes and deposits of rock, gravel, sand and other road building material for use in highway

construction and maintenance. Such acquisition may be for immediate or future use. The Department may acquire reasonable amounts of land adjacent to its normal right-of-way for the purpose of screening unsightly areas adjacent to highways, landscaping safety rest areas and scenic overlook areas.

(b) In determining the amount of land required, or width of right-of-way necessary for such state highways, the Department shall take into consideration the present and probable future needs in connection with maintaining and reconstructing the highways, and the prevention of traffic congestion and hazards.

(c) Except in instances where there are nonresident owners, unknown heirs, imperfect titles and owners whose whereabouts cannot be ascertained with reasonable diligence, the Department shall give the owner an opportunity to sell the necessary lands or interests therein to the State of Oklahoma before resort to condemnation may be had. The Department may condemn such lands or interests therein in the following manner:

The district judge of the county in which the real property may be situated, upon petition of either party, and after ten (10) days' notice to the opposite party, either by personal service or by leaving a copy thereof at his usual place of residence with some member of his family over fifteen (15) years of age, or, in the case of nonresidents, unknown heirs or other persons whose whereabouts cannot be ascertained, by publication in two issues of a newspaper in general circulation in the county (the ten-day period to begin with the first publication), shall direct the sheriff of the county to summon three disinterested freeholders, to be selected by the judge as commissioners, and who shall not be interested in a like question. The commissioners shall be sworn to perform their duties impartially and justly; and they shall inspect the real property and consider the injury which the owner may sustain by reason of the condemnation, and they shall assess the just compensation to which the owner is entitled; and they shall forthwith make a report in writing to the clerk of the court, setting forth the quantity, boundaries and just compensation for the property taken, and amount of injury done to the property, either directly or indirectly, which they assess to the owner, which report must be filed and recorded by the clerk. A certified copy of the report may be transmitted to the county clerk of the county where the land lies, to be ~~by him~~ filed and recorded by the county clerk (without further acknowledgment or proof) in the same manner and with like force and effect as is provided for the recording of deeds. The procedure for service by publication as authorized herein shall be the same as provided by law for service by publication in civil actions, except summons need not be issued and served, and except as otherwise provided herein.

(d) Immediately upon payment to the clerk of the court for the use of the owner the sum so assessed and reported to ~~him~~ the court clerk as aforesaid, the Department shall thereby be authorized to enter upon the condemned premises, and remove and dispose of any obstructions thereon, by sale or otherwise. If the landowner shall refuse to deliver up possession to the Department, the court shall issue an order to the sheriff of the county to place the Department in possession thereof.

(e) (1) The report of commissioners may be reviewed by the district court, on written exceptions filed by either party in the clerk's office within thirty (30) days after the filing of such report, and the court, after hearing had, shall make such order therein as right and justice may require, either by confirmation, rejection or by ordering a new appraisal on good cause shown. Provided, that in the event a new appraisal is ordered, the Department shall have the continuing right of possession obtained under the first appraisal, unless and until its right to condemn has finally been determined otherwise; or either party may within sixty (60) days after the filing of such report file with the clerk a written demand for a trial by jury, in which case the amount of damages shall be assessed by a jury, and the trial shall be conducted and judgment entered in the same manner as civil actions in the district court. If the party demanding such trial does not recover a verdict more favorable to ~~him~~ the party than the assessment of the commissioners, all costs in the district court shall be taxed against ~~him~~ the party. No owner upon whom proper service by publication has been had, as provided in this title, shall be let in to defend after expiration of time for appeal or review of the report of commissioners as above provided has elapsed. Provided, that if, after the filing of exceptions to the report of commissioners as hereinafter provided, the Department shall fail to establish its right to condemn such premises, or any part thereof, the landowner shall be restored to possession of the premises, or part thereof, and the Department shall pay ~~him~~ for any damages sustained through the occupation by the Department, and if such damages cannot be determined by amicable settlement they shall be determined by jury trial in the same proceedings.

(2) Within ten (10) days after the Report of Commissioners is filed, the court clerk shall forward to the attorney of record for the condemnor, the attorney of record for each condemnee, and to all unrepresented condemnees, a copy of the commissioners' report and a notice, stating the time limits for filing an exception or demand for jury trial as specified in paragraph (A) of Section 55 of Title 66 of the Oklahoma Statutes. The attorney of record for the condemnor shall provide the clerk of the court with the names and last-known addresses of the parties to whom notice and the report of the commissioners shall be mailed, sufficient copies of the notice and report to be mailed, and pre-addressed, postage-paid envelopes. This notice shall be on a form prepared by the Court Administrator, which shall be approved by the Supreme Court, and shall be distributed to all clerks of the district court by said Court Administrator. If a party has been served by publication, the clerk shall forward a copy of the report of commissioners and notice of time limits for filing an exception or demand for jury trial to the last-known mailing address, if any, and shall cause a copy of the notice of time limits to be published in one issue of a newspaper qualified to publish legal notices, as defined in Title 25 of the Oklahoma Statutes, Section 106. After issuing the notices provided herein the court clerk shall endorse on the notice form filed in the case the date and that a copy of the report together with the notice form filed in the case was forwarded to each condemnee and each attorney of record, or the date the notice was published in compliance with the provisions hereof.

(3) The time limits for filing an exception and demand for jury trial, as prescribed in paragraph (A) of Section 55 of Title 66 of the Oklahoma Statutes, shall be calculated from the date the report of the commissioners is filed in the case. On failure of the court clerk to give notice within the time prescribed in paragraph (B) of Section 55 of Title 66 of the Oklahoma Statutes, the court, on application of any party, may extend the time for filing an exception to the report, or a demand for trial by jury for a period not to exceed twenty (20) days from the date the application is heard.

(f) Either party aggrieved may appeal to the Supreme Court from the decision of the district court on exceptions to the report of commissioners, or jury trial; but such review or appeal shall not delay the prosecution of the work on such highway over the premises in question if the award of commissioners, or jury, as the case may be, has been deposited with the clerk for such owner, and in no case shall the Department be liable for the costs on such review or appeal unless the owner of the real property shall be adjudged entitled, upon either review or appeal, to a greater amount of damages than was awarded by the commissioners. The Department shall in all cases pay the cost of the commissioners' fees and expenses, for their services, as determined and ordered paid by the judge of the district court in which such case is pending, however, poundage fees and condemnation fees shall only be paid by the department in the event of appeal resulting in a jury verdict in excess of the commissioners' award, but under no circumstances shall any poundage fees or condemnation fees be assessed against the recipient of said award. And in case of review or appeal, a certified copy of the final order or judgment shall be transmitted by the clerk of the court, duly certified, to the proper county clerk, to be ~~by him~~ filed and recorded as hereinabove provided for the recording of the report, and with like effect.

(g) When an estate is being probated, or a minor or incompetent person has a legal guardian, the administrator or executor of the estate, or guardian of the minor or incompetent person, shall have the authority to execute all instruments of conveyance provided for in this title on behalf of the estate, minor or incompetent person without other proceedings than approval by the judge of the district court endorsed on the instrument of conveyance.

(h) "Just compensation", as used in this section, shall mean the value of the property taken, and in addition, any injury to any part of the property not taken. Any special and direct benefits to the part of the property not taken may be offset only against any injury to the property not taken. If only a part of a tract is taken, just compensation shall be ascertained by determining the difference between the fair market value of the whole tract immediately before the taking and the fair market value of that portion left remaining immediately after the taking.

SECTION 12. This act shall become effective July 1, 2001.

SECTION 13. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby

declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

Passed the Senate the 10th day of May, 2001.

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Presiding Officer of the Senate

Passed the House of Representatives the 17th day of May, 2001.

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Presiding Officer of the House  
of Representatives